



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,305	12/28/2001	Justin Falconer Chapweske	4110-4002US1	8199

7590 10/05/2005
KENT J. SIEFFERT
SHUMAKER & SIEFFERT P.A.
8425 SEASONS PARKWAY
SUITE 105
ST. PAUL, MN 55125

EXAMINER

HOSSAIN, TANIM M

ART UNIT PAPER NUMBER

2145

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,305

Applicant(s)

CHAPWESKE, JUSTIN
FALCONER

Examiner

Tanim Hossain

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-136 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-136 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

20

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-15, 17-20, 23, 25-28, 31, 33, 34-37, 39-41, 43-49, 51-57, 59-65, 67, 68-74, 76, 77-83, 85-91, 93-99, 101, 102-108, 110, 111-117, 119-125, 127-133, 135, and 136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nair et al (U.S. 2004/0193900) in view of Carpentier et al (U.S. 2005/0010792).

As per claim 1, Nair teaches a method of using a computer for transferring data comprising: sending a request for data from a requesting computer to a targeted computer system (0009-0010); accessing at the targeted computer system a look-up list to identify other computers that have previously requested and received at least a portion of the requested data (0009-0010); sending requests to the identified computers (0009-0010); encoding at least a portion of the data at the identified computers (0045); sending the encoded data from the identified computers to the requesting computer (0009-0010); receiving the acknowledgement independent equalized encoded data, as data packets, from sending computers (0045); decoding the received encoded data (0045); and the saving decoded data in memory (0045). Nair does not specifically teach the reception of different partial portions of a data file from different

computers. Carpentier teaches the partial download of certain files, where other nodes simultaneously fill the missing parts of the file in a peer-to-peer network (0069). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to have the ability to download files piece by piece from a plurality of sources, as taught by Carpentier in the system of Nair. The motivation for doing so lies in the fact that having the ability to have multiple sources from which to partially download would allow a boost in transmission speed, because the file would then come from a plurality of sources, rather than just one, for example. Both inventions are from the same field of endeavor, namely the efficient transmission of data from peer to peer.

As per claim 2, Nair-Carpentier teaches the method of claim 1, wherein data transmission is accomplished from the one or more computers over a peer-to-peer network, wherein the other computers that previously requested and received at least a portion of the requested data are peers with the requesting computer (Nair: 0009-0010).

As per claim 3, Nair-Carpentier teaches the method of claim 1, wherein encoded packets are relayed (Nair: 0045).

As per claim 4, Nair-Carpentier teaches the method of claim 1, but does not specifically teach that the look-up list is populated with nodes based on data transfer rates. Official Notice is taken that the sorting of hits by transfer speed is a well known in the art of peer-to-peer networking. It would therefore be obvious to one of ordinary skill in the art at the time of the invention to include such a display based on transfer rates, to allow for sorting by what would possibly yield the fastest download rate.

As per claim 5, Nair-Carpentier teaches the method of claim 1, wherein the look-up list is populated with nodes based on data types stored within the nodes (Nair: 0038).

As per claim 6, Nair-Carpentier teaches the method of claim 1, wherein the lookup list is a mesh list (Nair: 0038).

As per claim 8, Nair-Carpentier teaches the method of claim 1, wherein the data that is to be encoded is segmented before encoding (Carpentier: 0069).

As per claim 9, Nair-Carpentier teaches the method of claim 1, wherein the received encoded packets are decoded, and then re-encoded for further transmission upon request (Carpentier: 0069).

Claims 10-15 and 17 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 18-20, 23, and 25 are rejected on the same bases as claims 1-3, 6, and 8 respectively.

Claims 26-28, 31, 33, and 34 are rejected on the same bases as claims 1-3, 6, 8, and 9 respectively.

Claims 35-37, 39-41, and 43 are rejected on the same bases as claims 1-3, 5, 6, 8, and 9 respectively.

Claims 44-49 and 51 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 52-57 and 59 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 60-65, 67, and 68 are rejected on the same bases as claims 1-6, 8, and 9 respectively.

Claims 69-74, 76, and 77 are rejected on the same bases as claims 1-6, 8, and 9 respectively.

Claims 78-83 and 85 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 86-91 and 93 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 94-99, 101, and 102 are rejected on the same bases as claims 1-6, 8, and 9 respectively.

Claims 103-108, 110, and 111 are rejected on the same bases as claims 1-6, 8, and 9 respectively.

Claims 112-117 and 119 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 120-125 and 127 are rejected on the same bases as claims 1-6 and 8 respectively.

Claims 128-133, 135, and 136 are rejected on the same bases as claims 1-6, 8, and 9 respectively.

As per claim 21, Nair-Carpentier teaches the method of claim 18, wherein the list is populated with nodes based on data transfer rates, and wherein each node represents a different one of the peer computers (Nair: 0009-0010).

As per claim 22, Nair-Carpentier teaches the method of claim 18, wherein the list is populated with nodes based on data types stored within the nodes, and wherein each node represents a different one of the peer computers (Nair: 0009-0010).

Claims 30 and 38 are rejected on the same bases as claims 1 and 21.

As per claim 118, Nair-Carpentier teaches the apparatus of claim 112, wherein the module that sends the requests to the identified peer computers further directs the peer computers to encode the data using an acknowledgement independent equalized data packet encoding scheme (Nair: 0037, 0069)

Claims 7, 16, 24, 32, 42, 50, 58, 66, 75, 84, 92, 126, and 134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nair-Carpentier in view of Schuster (U.S. 6,771,674).

As per claim 7, Nair-Carpentier teaches the method of claim 1, but does not specifically teach that the acknowledgement independent equalized data packet encoding scheme is a FEC encoding. Schuster teaches the encoding of data using the FEC scheme, which is acknowledgement independent and equalized (column 7, lines 20-34), and the decoding of the received data (2; 20-52). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the ability to encode data prior to transmission, and then decode this data after reception, as taught by Schuster in the system of Nair-Carpentier. The motivation for doing so lies in the fact that having equalized encoded packets transmitted allows for further flexibility in that packet loss would not result in the failure of the entire download – the missing packet can easily be replaced. Both inventions are from the same field of endeavor, namely the efficient transmission of data from peer to peer.

Claims 16, 24, 32, 42, 50, 58, 66, 75, 84, 92, 126, and 134 are rejected on the same basis as claim 7.

Response to Arguments

Applicant's arguments filed on July 11, 2005 have fully been considered and have respectfully been traversed by the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tanim Hossain whose telephone number is 571/272-3881. The examiner can normally be reached on 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharja can be reached on 571/272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tanim Hossain
Patent Examiner
Art Unit 2145



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER